

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT DEAN STRANDY,

Petitioner,

v.

STEVEN SINCLAIR,

Respondent.

CASE NO. C12-5636 BHS-JRC

ORDER DENYING APPOINTMENT
OF COUNSEL

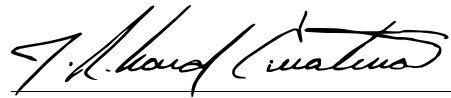
The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636 (b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction. Thus, the petition is filed pursuant to 28 U.S.C. § 2254.

Petitioner asks that the Court appoint counsel to represent him (ECF No. 5). Petitioner does not have a constitutional right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required. This is because the action is civil, not criminal, in nature. *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991) (citing *McCleskey v. Zant*, 499 U.S. 467, 495 (1991)); see *Ortiz v. Stewart*, 149 F.3d 923, 939 (9th Cir. 1998) ("There is simply

1 no constitutional right to an attorney in a state post-conviction proceeding”); *see also Terrovona*
2 *v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); and Rule 8(c) of the “Rules Governing Section
3 2254 Cases in the United States District Courts.”

4 The Court has just ordered service of the petition in this case and petitioner has failed to
5 demonstrate that he is entitled to counsel at this point in the proceedings. The motion is denied.

6 Dated this 22nd day of August, 2012.

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9 J. Richard Creatura
10 United States Magistrate Judge
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